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Pro Se

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U.S. DISTRICT COURT, NORTHERN DISTRICT OF TEXAS

AMARILLO DIVISION

LISA LIBERI, et al,

Plaintiffs,

vs.

LINDA SUE BELCHER, et al,

Defendants :

CIVIL ACTION

Case No. 2:11-cv-00090-J

Honorable Mary Lou Robinson

DEFENDANT'S MOTION TO DISMISS

TO THE HONORABLE COURT:

My name is Edgar S. Hale III, I am pro se in this case. I am 66 years old. Your Honor, I have no legal training and I am doing this the best that I can. I hope that you will accept this as I have written it. I do not have the money to hire a attorney or a paralegal to do this for me. I am a disabled veteran who gets a VA pension check each month. I live on that with my social security check, \$376.00 a month. I have no additional funds available to me at this time. This is my statement of facts. None of this can be rebutted by the plaintiffs because I use their own words and their voice to tell the truth about them.

On or about July 1, 2008, I started a radio show. I talked to Evelyn Adams about co hosting the show with me. She agreed. In early August of 2008, she asked me to let her bring on Larry Sinclair for a interview. I agreed. She booked Larry for the middle of August, 2008.

Larry appeared on our show and told of his homosexual encounter with Barack Obama. We had about 30 people in our chat room who were Obama supporters and they disrupted the Plains Radio regular chat room participants by flooding it with nothing but strange fillers to prevent our members from chatting.

e.g. liar, liar, liar, or xxxxxxxxxxxxxxxx or //////////////// or &&&&&&&&&, etc.

This went on the entire time Larry Sinclair was on the air and created complete havoc.

I figured after the show was over that would be the end of it, however the next night there was more people there, doing the same thing. This went on for over a week. I was told that if I did not get rid of Mrs. Adams, it would continue. I talked to Mrs. Adams about the problem and she agreed to stop doing the show. **See and listen to Exhibit 1.** We parted friends.

Then I found out that she had started her own show on BlogTalkRadio. I wished her the best. She left the show on or about August 21, 2008. I do not know the exact date that she started her own show, but I got report that she was bashing me and Plains Radio. I was sent an email by Teo Bear and he asked me to stop all the bickering. I agreed, since I was not saying anything about her on the air, and posted a statement in my forum like the one that was posted in Mrs. Adams forum. Please see page 3, 4, and 5 of **Exhibit 2.**

Then on or about September 5, 2008, Mrs. Adams attacked me on her radio show by calling me a "liar" and also that she had left because I wanted her to lie about Larry Sinclair. **See and listen to Exhibit 3.**

In late August, 2008, I had Phil Berg on as a guest. He was talking about the lawsuit he had filed against Obama and the DNC. During one of the breaks, Mr. Berg asked me if I knew anyone who would loan him \$10,000.00. He told me that he was in bankruptcy

and in order to save his house he needed that amount. That was a **RED FLAG** to me. I had him on a couple more times and it was the same story. He wanted money and asked people to donate to him. After reading his law suit and talking to other attorneys, I realized that he did not have a case and it would be thrown out, which it was. All Mr. Berg was in it for was the money.

Mr. Berg told everyone it cost \$25,000.00 to file a appeal to the US Supreme court. I talk to Leo Donofrio, a attorney, who filed a case with the Supreme Court. It cost him a filing fee of \$250.00 plus his time and travel expense. Less than \$1000.00. More **RED FLAGS** about Mr. Berg.

I was contacted by a person by the name of Sammy Koiri on October 16, 2008 by email. Mr. Koiri was the chief editor for the African Press International. He claimed he had a tape with Michelle Obama talking to him and the tape had some damaging stuff about Obama in it. On October 18, 2008, Mr. Koiri sent me a email with a phone number in it asked if I could call him on the 19th at 11:00 AM CDT. He told me because of the death threat he had gotten that his phone number was unlisted and not to give it to anyone. We talked on Sunday Morning, October 19, 2008. In our discussion, we came to terms on how to transfer the tape to Plains Radio Network. Mr. Koiri wanted a signed document stating what we were going to do with the tape and when we would release it. **See and**

listen to Exhibit 4. Not being a attorney, I tried calling one of my attorney friends, Ginny Roomer. She was on vacation and suggested that I call Phil Berg and get him to do the document.

I called Phil Berg, played the tape that I had just made of Mr. Koiri and asked him to do the document. Mr. Berg asked me for the phone number of Mr. Koiri in case he had some questions he needed answers to. Mr. Korri had never published that number anywhere. In fact it was an unlisted number. I gave it to Mr. Berg. I waited all afternoon for Mr. Berg to send me the document so I could get it signed and emailed to Mr. Korri. It never came. Monday morning I got a call from a listener who told me that Berg was now Korri's attorney and that Mrs. Adams was going to get the tapes. Mrs. Adams bragged on her show that night, October 20, 2008, how she had talked to Mr. Koiri several times on Sunday and Monday. **See and listen to Exhibit 5.** There is no way that Mr. Berg or Mrs. Adams could have gotten that phone number except through me. Mr. Berg appeared on a radio show called "The Right Perspective" around 10:00 PM EDT on October 17, 2008. **See and listen to Exhibit 14.** He talks about Mr Koiri and the tapes. Never once in that interview did he say he had talked to Mr. Koiri or he Mr. Koiri's attorney. Mrs. Adam published a statement on API in which she claimed that Mr. Berg had been Mr. Koiri's attorney before I called him. Mrs Adams further claims that Mr. Berg did not put API and African Press International together until after he made the

phone call. This was a lie, since I told Mr. Berg and made the reference to both of the names numerous times and only one place had the so called "Michelle Obama Tapes". Also Mr. Berg had listened to the audio tape with Mr. Koiri and myself. Mr. Berg knew who he was calling and why. All Mrs. Adams was doing was lying to cover up the facts. These people have no morals or decent values. They will do anything to get a dollar including lying, cheating and anything else. **See Exhibit 15.** Never once did Mr. Berg or Mr. Koiri say anything about Mr. Berg being API attorney. Mr. Berg was acting as my attorney and as such this case is a conflict of interest. I believe with Mrs. Adams statement, that Mr. Berg made a phone call on my behalf, proves beyond any doubt that Mr. Berg was in fact working on my behalf. I would think Your Honor, that if I had a client such as API with such damning evidence, I would not have forgotten about it as Mrs. Adams said in her statement.

I had decided that after the election was over, I would stop broadcasting. I had several 100 emails asking me to continue. I resumed my broadcasting on the following Monday.

In early December 2008, one of my hosts, Ken Dunbar, invited Mr. Berg to be guest on his show, called "The Liberty Pole". When I called Mr. Berg to put him on the air, he refused. Mr. Berg knew that all of us at Plains Radio knew he was a con artist and that is why he would not come on and defend himself.

Under the bill of rights, there is a section call "Freedom of Speech". Everything that we have been accused of occurred under the Plains Radio Network. Those radio programs were protected under the "Freedom of Speech" right granted to us by the constitution of the United States. Before each show, whether it be the Lions Den or any other show, we ran a disclaimer. We also had the same type of disclaimer on our forum. **See and listen to Exhibit 6.** This exhibit was placed up on YouTube on August 22, 2008. We did it to cover us from any actions resulting in Mr. Berg's appearance on our show. That was 53 days after we started the broadcast. We made certain that the people who were listening knew that all the information we were putting out was not verified and that they must verify it themselves. We only reported on what we had been told, some of it was accurate and some of it was not. If a story turned out to be wrong, when we were presented with new evidence, we made a correction on the next show. In the talk show world, someone would call in and talk about something, then we would have to find out if was in fact the truth. If not, we rebutted it. I had no control over what someone would say when they came on the air. The only thing I could do was hit the "kill button" and take them off of the air. Which, Your Honor, I did on several occasions. I believe everyone has a right to have their say. I do not believe that I have the right to stop them even if I disagree with them. That is what freedom is all about. As long as what they were talking about was legal, then they could have their say. I had one host who went off

on the militia angle, started to talk about taking the USA by force. I removed him as a host. I was also told of a plot to kill President Obama, I reported this to Joel Feaster of the Amarillo FBI office. I would allow anything on the air as long as it was legal.

Our Network became very popular and our rating skyrocketed. On December 4, 2008 at 2:00 AM Central, we were the number one network in the nation. This is from Talk Stream Live, a company who measures all the radio programs in this country. **See Exhibit 7.** Then on 12-8-2008 at 11:00 PM Central, we were the number 3 radio show in the nation according to Talk Stream Live. **See Exhibit 8.** Now on 12-14-08 at 12 Noon Central time, we were the number 1 show in the Nation. At that hour our competition was Rush Limbaugh and we beat him. **See Exhibit 9.** The final Talk Stream Live is from 12-14-08 at 11:00 PM Central. We were the number one network on the air at that time. We were beating Coast to Coast AM radio show. As you can see our shows were going off the chart.

As of January 1, 2009, our radio network was rated at number 22 for the past year of 2008. **See Exhibit 11a and 11b.** In the fourth quarter rating put out by Talk Steam Live, we were rated at number 12 in the nation. **See Exhibit 12.** The 1st quarter of 2009, we climbed to the number 8 radio network in the entire USA. We had a 2.8 shares of the US Market. That meant we had millions of people listening to us. **See Exhibit 13.**

Your Honor, I hope you are seeing the big picture. Our radio network was becoming a household name. When we had a guest on, they got 1000's of emails. Dr Orly Taitz was on our radio show many times. She told me that she got thousands of dollars in donations every time she was on. We raised \$10,000.00 in 2 days for attorney Stephen Pidgeon to help with his law suit.

We were hitting Berg in the pocketbook where it hurt him. I have been told that his donations in December 2008 to April, 2009 dropped to about 20% of what he was getting. I cannot verify this at all.

I can remember one night, in February 2009, when Senator Randy Brogdon, who was running for governor in Oklahoma, came on the air with an appeal. He was trying to raise \$15,000.00 for his campaign. He was at less than \$12,000.00 In the last 30 minutes of our show, he got over \$5000.00 donated to him.

Your honor, Mr. Berg and Mrs. Adams set out to destroy Plains Radio. Mrs. Adams with her lies and Mr. Berg with this lawsuit. They did just that. When this law suit broke, Plains Radio listeners left because of the fear that they could be named as one of the 200 John Does in the case. Mr. Berg used that to scare the people away. Mrs. Adams made it

plain that anyone with Plains Radio, even listening, could be sued. That is why they put the 200 John Does in this suit. They had one objective, to shut Plains Radio down.

Your Honor, I was going to sign a contract with a company that would have paid me \$1000's each month on July 1, 2009. We would have been on many AM station throughout the USA. Mr. Berg and the Plaintiffs stopped all of that when they filed this lawsuit with 200 John Does attached to it. They wanted me destroyed. They did their job well.

First Amendment of the Bill of Rights to the United States Constitution

CONGRESS SHALL MAKE NO LAW RESPECTING AN ESTABLISHMENT OF RELIGION, OR PROHIBITING THE FREE EXERCISE THEREOF; OR ABRIDGING THE FREEDOM OF SPEECH, OR OF THE PRESS; OR THE RIGHT OF THE PEOPLE PEACEABLY TO ASSEMBLE, AND TO PETITION THE GOVERNMENT FOR A REDRESS OF GRIEVANCES.

“The very purpose of a Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials and to establish them as legal principles to be applied by the courts. One’s right to life, liberty, and property, to free speech, a free press, freedom of worship and assembly, and other fundamental rights may not be submitted to vote; they depend on the outcome of no elections.” — Supreme Court Justice Robert Jackson, West Virginia

State Board of Education v. Barnette, 319 U.S. 624 (1943)

“First Amendment freedoms are most in danger when the government seeks to control thought or to justify its laws for that impermissible end. The right to think is the beginning of freedom, and speech must be protected from the government because speech is the beginning of thought.”—Supreme Court Justice Anthony M. Kennedy,

Ashcroft V. Free Speech Coalition

Under *New York Times Co. v. Sullivan, 376 U.S. 254 (1964)*, The U.S. Supreme Court held that right of free speech was guaranteed by the Constitution of the United States.

MR. JUSTICE BRENNAN in delivering the opinion of the Court said:

"where public officials are concerned, or where public matters are involved. . . . [One main function of the First Amendment is to ensure ample opportunity for the people to determine and resolve public issues. Where public matters are involved, the doubts should be resolved in favor of freedom of expression, rather than against it."

Since the Plaintiffs have appeared on many radio and television programs, they are considered to be public figures. As such, they are subject to the most intense scrutiny. They were seeking financial support for their efforts. All of the Plaintiffs have appeared on numerous radio shows. Mr. Berg has had a film made about him in which he appears in it. Mr. Berg continues to appear on radio shows begging for money from people who do not like the President of the United States. He plays the race card very cagily to get all those prejudice people to give him money.

In *Stromberg v. California*, 283 U. S. 359, 283 U. S. 369. "It is a prized American privilege to speak one's mind, although not always with perfect good taste, on all public institutions,"

In *United States v. Associated Press*, 52 F.Supp. 362, 372 (D.C.S.D.N.Y.1943). Mr. Justice Brandeis, in his concurring opinion in *Whitney v. California*, 274 U. S. 357, 274 U. S. 375-376, gave the principle its classic formulation:

"Those who won our independence believed . . . that public discussion is a political duty, and that this should be a fundamental principle of the American government. They recognized the risks to which all human institutions are subject. But they knew that order cannot be secured merely through fear of punishment for its infraction; that it is

hazardous to discourage thought, hope and imagination; that fear breeds repression; that repression breeds hate; that hate menaces stable government; that the path of safety lies in the opportunity to discuss freely supposed grievances and proposed remedies, and that the fitting remedy for evil counsels is good ones. Believing in the power of reason as applied through public discussion, they eschewed silence coerced by law -- the argument of force in its worst form. Recognizing the occasional tyrannies of governing majorities, they amended the Constitution so that free speech and assembly should be guaranteed."

In *Cantwell v. Connecticut*, 310 U. S. 296, 310 U. S. 310, the Court declared:

"In the realm of religious faith, and in that of political belief, sharp differences arise. In both fields, the tenets of one man may seem the rankest error to his neighbor. To persuade others to his own point of view, the pleader, as we know, at times resorts to exaggeration, to vilification of men who have been, or are, prominent in church or state, and even to false statement. But the people of this nation have ordained, in the light of history, that, in spite of the probability of excesses and abuses, these liberties are, in the long view, essential to enlightened opinion and right conduct on the part of the citizens of a democracy."

Mill, On Liberty (Oxford: Blackwell, 1947), at 15; Even a false statement may be deemed to make a valuable contribution to public debate, since it brings about "the

clearer perception and livelier impression of truth, produced by its collision with error."

Johnson Publishing Co. v. Davis, 271 Ala. 474, 487, 124 So.2d 441, 450 (1960). Thus,

the trial judge here instructed the jury that

"mere negligence or carelessness is not evidence of actual malice or malice, in fact, and does not justify an award of exemplary or punitive damages in an action for libel."

Your Honor, Mr. Berg and company is using the court system to stop the right to freedom of speech. It has come to my attention that on June 13, 2011, The Post and Email published an article based on the court records of Liberi vs Taitz. They used the court records to produce the story. Mr. Berg sent them a letter on June 20, 2011 threatening to sue them if they did not print a retraction. This article was not favorable to Mr. Berg and the Plaintiffs. The reason Mr. Berg wanted this done was because the Post and Email has about a million people a day reading their stories. Once again this would hurt Mr. Berg in his pocketbook so he starts with the intimidation of those who can tell the truth about him. This can be summed up by the editor's note on the last page:

Editorial Note: Recently, a reader communicated to us that he has given "thousands of dollars" to Berg for the purpose of disclosing Obama's records and background. Where did those "thousands" go? How much money has Berg collected? Are the funds being used to harass small media outlets such as The Post & Email which obtain and publish the truth, as opposed to the Big Media companies which are nothing but corporately-controlled mouthpieces for the government and have failed to seriously report on the Obama eligibility question, thereby defrauding the public?

Would Berg be doing this if we were MSNBC or CNN?

The Post & Email is a small company with few assets except our intellectual property, but we will

survive this unwarranted attack on our credibility and integrity. If the American people want truth in media rather than "spin," we will continue to grow. We will fight any and all false claims made against us and admit it if we are wrong. We will not be manipulated nor intimidated.

The web site is <http://www.thepostemail.com/2011/06/25/atty-philip-j-berg-accuses-the-post-threatens-to-sue/>. See Exhibit 16.

Your Honor, these people are out of control. They are using you and the court system to harass, intimidate, and manipulate all small media outlets. This is not the first time I have heard about them doing this, but this is the first time anyone has fought back. You must dismiss this case and send this message to these people, this is the United States of America. You must tell Mr. Berg that he is not Adolf Hitler and his henchmen are not the SS Storm Troopers. This country was founded on freedom of speech and Your Honor, you must preserve that right. If this is allowed to stand, how many more media outlets that tell the truth will become subject to Mr. Berg threats and how many of them will be shut down. This case can not be allowed to continue.

CONCLUSION

The evidence in this case presented by the plaintiffs shows that this was a lawsuit to stop my right of free speech. By telling the truth about Mr. Berg and the plaintiffs, their donations dried up. They would not come on the air with the hottest shows on radio, so

they decided to stop Plains Radio with this law suit. Once Plains Radio was gone, no one would be able to tell the truth about them. Now that the Post and Email has started to tell the truth about these people, they are now under attack by Mr. Berg and his henchmen.

Do you see the pattern Your Honor?

Mr. Berg and the Plaintiffs could only get the money flowing again if they stopped Plains Radio and myself. This lawsuit was designed for that one purpose. In June of 2010, I had to shut Plains Radio down because I could no longer afford the cost. In August of 2010, I spent 8 days in Northwest Texas Hospital in Amarillo, Texas. I had heart problems. My part, after medicare, was over \$100,000.00. This was a direct result

of Mr. Berg, Mrs. Liberi, Mrs. Adam and Mrs. Ostrello action with this law suit. This case is about First Amendment of the Bill of Rights to the United States Constitution, freedom of speech. As cited by numerous cases for the US Supreme Court, this is a case of stifling the right of free speech. The Plaintiffs made this a First Amendment issue when they name Plains Radio Network, Inc, and KPRN as defendants. All the evidence that they have presented was in a direct result of Plains Radio and KPRN. All emails and other communications from myself was a result of Plains Radio. Even though some of the emails and some of the on air comments were distasteful, they are still covered under the First Amendment of the Constitution of the United States as outlined by the

case law submitted in this brief. **SEE *Cantwell v. Connecticut*, 310 U. S. 296, 310 U. S. 310.**

Your Honor, had I not been on the radio, then none of this would not have happened. I would never have known any of these people. This law suit would not have happened. **This is a clear case of the First Amendment of the Bill of Rights to the United States Constitution, freedom of speech.** It is nothing more nor nothing less than my right as a citizen to speak my mind. That right is covered under the Consitution of the United States.

I am sure that Mr. Berg will submitt another one of his smoke and mirror motion to this but I pray that Your Honor will keep in mind the real reason he is doing it, money and what is at stake here, the right to freedom of speech.

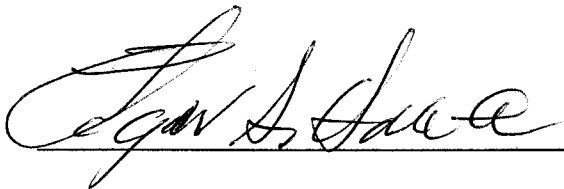
RELIEF

I request that Your Honor dismiss this case with prejudice . If Your Honor finds that this lawsuit was meritless and that you award all the defendants the sum of \$25,000.00 from each of the Plaintiffs to cover the cost that has been incurred during these past 2 years. I ask that Your Honor sanction Mr. Berg for this frivolous lawsuit and ask the Pennsylvania State Bar to disbar him. Mr. Berg and the plaintiffs brought this lawsuit to destroy the rights of all American citizens, the right to freedom of speech. If, Your Honor, you do not stop this case, then they will have succeeded. This is the time to stand

up for the Constitution of United States of America and the Bill of Rights.

Your Honor, money can never get my reputation back or pay me for the injustices I have suffered, **ONLY A ORDER DISMISSING THIS CASE CAN DO THAT.** I want the world to know just what these people did and why they did it, only then I can get on with my life.

I pray Your Honor that you will do as I have asked and make these people a example to the rest of the world. Please don't allow the right of free speech be taken away from us.

A handwritten signature in cursive script, appearing to read "Edgar S. Hale III", written over a horizontal line.

Edgar S. Hale III, Pro Se

CERTIFICATE OF SERVICE

I, Edgar S. Hale, III, hereby certify that a copy of Defendants Motion To Dismiss was served this the 14th day of July, 2011, via electronic means

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